



STATES ATTEMPTING TO LEGALIZE MARIJUANA

By: Duke Chen, Legislative Analyst II

STATES

On the November 2014 ballots, Alaska and Oregon will likely allow voters to decide if marijuana should be legal.

Washington, D.C. petitioners have collected enough signatures to have the initiative on the November ballot, but Congress may block the vote.

Marijuana legalization advocacy groups are targeting the 2016 presidential election cycle for ballot initiatives in at least six other states.

QUESTION

What states are currently attempting to legalize marijuana?

SUMMARY

We were able to identify at least two states (Alaska and Oregon) that are likely to have marijuana legalization on the ballot in 2014. Additionally, Washington, D.C. has collected enough signatures to have the initiative placed on the ballot, but according to the [Washington Post](#), Congress may block the vote.

According to [media reports](#), certain marijuana legalization [advocacy groups](#) are waiting until 2016 before introducing ballot measures. These groups, the

reports suggest, believe there is a greater likelihood of success during a presidential election year when there are more youthful and Democratic voters than in a midterm election year. States these groups are targeting include Arizona, California, Maine, Massachusetts, Montana, and Nevada.

Additionally, these groups are likely to continue lobbying state legislators to pass legalization legislation in states like Delaware, Hawaii, Maryland, New Hampshire, Rhode Island, and Vermont. Advocacy groups have determined that these states are more likely to pass marijuana legalization through legislation, but it does not mean a ballot initiative could not also be done concurrently.

ALASKA

Ballot Measure 2

In the November election, Alaska voters will vote on [Ballot Measure 2](#), which is an initiative that would (1) allow those age 21 or over to possess up to one ounce of marijuana and up to six plants and (2) tax and regulate the production, sale, and use of marijuana in the state.

The initiative would, among other things,

1. make the state Alcoholic Beverage Control Board the implementing entity and allow the legislature to create a Marijuana Control Board to assume these duties set by the initiative,
2. allow local governments to prohibit the operation of marijuana-related entities, and
3. impose a \$50 per ounce (or proportionate) excise tax on the sale or transfer of marijuana from a cultivation facility to a retail store or product manufacturing facility.

The initiative would not (1) require employers or certain other entities to allow marijuana use or prevent them from prohibiting such use or (2) supersede driving under the influence laws.

History

In order for a question to appear on the ballot, Alaska law requires, among other things, the number of qualified signatures to equal at least 10% of those who voted in the preceding general election (Alaska Stat. § 15.45.140). According to the Division of Elections, petitioners needed at least 30,169 valid signatures of registered voters and the submitted marijuana legalization petition contained 36,030. (For more information on the filing, see <http://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=171435>.)

Originally, the initiative was scheduled for a vote during the primary election (August 19), but it was automatically delayed until November when the state legislature extended its session. State law requires ballot initiatives to be at least 120 days after the session ends (Alaska Stat. § 15.45.190).

OREGON

Initiative Number 53

Oregon voters will likely vote on [Initiative Number 53](#) in November to decide whether the state should allow those age 21 or older to possess up to eight ounces of marijuana and allow cultivation of up to four plants.

The initiative would, among other things,

1. require the Liquor Control Commission to oversee and regulate the industry, including licensing marijuana production and retail sale;
2. place requirements on a purchaser (e.g., requiring identification);
3. tax marijuana at (a) \$35 per ounce on all marijuana flowers, (b) \$10 per ounce on all marijuana leaves, and (c) \$5 per immature marijuana plant; and
4. create the Oregon Marijuana Account and distribute money in the accounts as follows: (a) 40% to the Common School Fund, (b) 20% to the Mental Health Alcoholism and Drug Services Account, (c) 15% to the State Police Account, (d) 20% to help law enforcement perform marijuana-related duties, and (e) 5% to the Oregon Health Authority for intervention and treatment services.

History

The state constitution requires the number of qualified signatures to equal at least 6% of those who voted in the preceding gubernatorial election for statutory initiatives (Ore. Const. art. IV, § 1). On June 26, petitioners submitted 145,030 signatures to the secretary of state for verification, which is well over the required 87,213.

In the 2012 election, Oregon voters rejected a similar marijuana legalization initiative ([Measure 80](#)) to Initiative 53. The measure was defeated by a 53.25% to 46.75% vote.

WASHINGTON, D.C.

Initiative 71

Washington, D.C. voters may vote on [Initiative 71](#) in November to decide whether the District should allow those age 21 or older to, among other things, (1) possess, use, purchase, or transport up to two ounces of marijuana; (2) cultivate up to six

plants, with less than three being mature flowering plants; (3) use or sell paraphernalia associated with marijuana; and (4) transfer one ounce or less of marijuana to another person age 21 or older.

Unlike states, Washington, D.C. is in a unique situation because it does not have the authority to tax or fund its own budget. Both of these are done by Congress. As such, the initiative does not tax or provide a regulatory scheme.

History

District law requires, among other things, the number of qualified signatures to equal at least 5% of registered voters (D.C. Code § 1-1001.16(i)). Prior to the July 7 petition submission deadline, petitioners delivered a [reported 57,000](#) signatures to the D.C. Board of Election, which is more than double the 22,373 required by law.

Congressional Authority

Under the U.S. Constitution, Congress has the power to “exercise exclusive Legislation in all Cases whatsoever” pertaining to Washington, D.C. (U.S. Const. art. I, § 8, clause 17). As such, Congress could pass its own legislation barring the city from legalizing marijuana. Additionally, since Congress appropriates funds for the District, it could pass legislation barring the city from spending money on, or printing ballots for, the initiative to legalize marijuana, which is a Schedule I controlled substance that is illegal under federal law. (For more information on marijuana under federal law, including the 2013 Department of Justice Enforcement Memorandum, see OLR Report [2014-R-0191](#).)

Although it is likely there are enough valid signatures to place the initiative on the ballot, Congress may block it or prevent it from becoming law. Currently, Congress is attempting to block the D.C. Council-passed marijuana decriminalization bill. The House Appropriations Committee approved a spending bill that prohibits the District from spending money to reduce penalties for marijuana use (see Washington Post article for more information, http://www.washingtonpost.com/local/dc-politics/house-republicans-block-funding-for-dc-marijuana-decriminalization/2014/06/25/d6854ba8-fc6e-11e3-8176-f2c941cf35f1_story.html).

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